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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

* * * * *

BENJAMIN JONES, ET AL.

Plaintiffs

v.

CIVIL ACTION
NO. 72-3621-C

JAMES T. LYNN, ET AL.

Defendants

* * * * *

STIPULATION AND AGREEMENT

WHEREAS, the plaintiffs in the above-entitled cause have made certain allegations in their Complaint and Amended Complaint; and

WHEREAS, the parties hereto, without in any way admitting or acknowledging the validity of any of said allegations desire to dispose of this action by compromise and agreement.

NOW THEREFORE, the parties hereto enter into this STIPULATION AND AGREEMENT with respect to the disposition of this action, solely for the purpose of disposing of this action, and for no other purpose.

1. Simultaneous with the filing with the Court of this

STIPULATION AND AGREEMENT, signed by counsel of record for each party, the parties hereto shall waive any and all appeals or right of appeal with respect to the action, and the parties shall execute the attached form of Stipulation of Dismissal with Prejudice, upon the Court's approval of this STIPULATION AND AGREEMENT.

2. Upon the approval of this STIPULATION AND AGREEMENT by the Court, this STIPULATION AND AGREEMENT shall have the force and effect of an Order of the Court.

3. The filing of this STIPULATION AND AGREEMENT with the Court shall terminate the above-entitled action with prejudice and discharge, dispose of and end all claims and allegations of the plaintiffs and all persons or entities represented by them as set forth in the Complaint and Amended Complaint or all members of the class as determined by the Court.

4. The Term "plaintiffs" as used in this STIPULATION AND AGREEMENT shall mean and include each individual named in the Complaint and Amended Complaint and all members of the class represented by said plaintiffs as determined by the Court.

The term "low income housing" shall refer to rental housing in which the rentals are comparable to the rentals charged for public housing by the Boston Housing Authority.

5. The defendant, Boston Redevelopment Authority (BRA) shall forthwith enter into an Agreement with the Fenway Project

Area Committee (FenPAC), a copy of which is attached hereto, made a part hereof, and marked "Appendix A."

6. The following Disposition Parcels remain to be developed in the Fenway Urban Renewal Project Area: Disposition Parcels 3,5,6,7,8,9,12 and 13 (hereinafter "the Disposition Parcels"). The BRA recognizes the desirability of developing the aforementioned Disposition Parcels in the manner and under the terms hereinafter set forth. The BRA shall use every reasonable effort to obtain from federal and state governmental agencies adequate financial assistance, including subsidies for the development of the aforementioned Disposition Parcels and to obtain any and all necessary approvals for development of the aforementioned Disposition Parcels.

A. The BRA will require developers of the aforementioned Disposition Parcels (with the exception of Disposition Parcel 13) to make reasonable efforts to obtain similar financial assistance and approvals. With respect to the development of Disposition Parcels 3,5 and 9, The First Church of Christ, Scientist and Church Realty Trust (the "Church") will use best efforts to cooperate with the BRA and designated developers in obtaining such financial assistance, including subsidies, as may be available from federal and state governmental agencies.

B. Nothing in this Agreement shall require the Church to act as the developer of Parcels 3,5 or 9 or to provide financial assistance or subsidies in aid of the development of said Parcels.

C. In view of the foregoing and subject to the BRA and the developers obtaining adequate financial assistance and necessary approvals, the aforementioned Disposition Parcels shall be developed as hereinafter set forth, provided however, that with respect to any Disposition Parcels or portions thereof now or hereafter owned by the Church, all development plans and developers shall be first approved by the Church.

7. Parcel 3 shall be developed in accordance with development plans of the developer, both development plans and developer to be approved by the BRA and the Church, for mixed income housing with ground and lower floor commercial space. The BRA and the Church recognize the desirability of developing Parcel 3 with a minimum of approximately twenty-five (25%) percent of the total housing units to be rented at low income housing rentals. In the event that the designated developer of Parcel 3 cannot obtain financial assistance for a minimum of approximately twenty-five (25%) percent of the total housing units to be rented at low income housing rentals, the BRA and the Church in cooperation with the designated developer will exert their best efforts to have Parcel 3 developed with the lowest subsidized rental rates available.

A. Notwithstanding the provisions of paragraph 6B hereof, if the feasibility of either constructing or financing residential housing consistent with the goals contained above, is determined in the future by the Church to turn upon the acquisition cost for such land, the Church as owner of the land, agrees to convey the

land to the developer for a price which is reasonably acceptable to the Church and the developer in order to meet the requirements of the developer's financing and which bears a reasonable relationship to the Church's cost, and in no event to exceed the Church's cost.

The BRA agrees to keep FenPAC fully informed of the progress of its requests for HUD or MHFA subsidies or other forms of financial assistance.

The Church agrees that upon reasonable request of counsel of record for the plaintiffs, the Church will inform said counsel of the status of financing for Parcel 3, including anticipated rental rates and subsidies related thereto.

In the event that the Church determines, after its best efforts to develop Parcel 3 in the manner described above, that the necessary financing and/or subsidies cannot be obtained, the Church shall inform counsel for the plaintiffs of said determination. At the request of said counsel, the Church agrees to prepare a written report summarizing the reasons therefor.

The BRA and the Church agree to limit any structure proposed for Parcel 3 to twelve (12) stories in height and to a total of approximately three hundred and twenty (320) housing units.

8. Parcels 5 and 9 shall be developed by the present tentatively designated developer in accordance with the present development plans for low and moderate income housing with ground and lower floor commercial space.

~~The Church reserves the right to determine when the present~~

The Church reserves the right to determine when the present tentatively designated developer cannot obtain an interest reduction subsidy under Section 236 of the Housing Act of 1949, as amended. The Church will thereafter notify BRA of said determination and reasons therefor, and will provide a copy of said notice to counsel for the plaintiffs. For one (1) year following said notice, the Church will use its best efforts in cooperation with a developer to assist said developer in obtaining financing so that approximately twenty-five (25%) percent of the total housing units may be rented at low income housing rentals.

If at the expiration of said one (1) year period, the Church determines that financial assistance cannot be obtained for the development outlined above, the Church will notify the BRA, with a copy of said notice to counsel for the plaintiffs, stating the basis for said determination. Upon said notification, the terms and provisions of this STIPULATION AND AGREEMENT shall not bind the Church, the BRA, or any developer with respect to Parcels 5 and 9.

The BRA and the Church agree to limit any structure constructed on Parcel 5 or 9 to a maximum of twenty (20) stories on each Parcel.

9. Parcels 6 and 8 shall be developed for a use amenable for the needs of the community and with the advice and recommendations of FenPAC. The BRA shall encourage a community sponsored group to submit proposals for the development of these parcels and shall provide such assistance as may be requested within the

guidelines set forth in the Agreement between the BRA and FenPAC, "Appendix A" hereto. In the event that either or both parcels are proposed to be used for residential housing, a minimum of twenty-five percent (25%) of the total housing units shall be made available for rental at low income housing levels.

10. Parcel 7 shall be made available for a rehabilitation program consistent with the housing needs of the community and having a minimum of twenty-five percent (25%) of the total housing units available for rental at low income housing levels.

The BRA shall encourage a community-sponsored group to submit proposals for said rehabilitation and will provide such assistance as may be requested within the guidelines of the Agreement between the BRA and FenPAC, "Appendix A" hereto.

11. Parcel 12 shall be developed for mixed income housing with ground and lower floor commercial use and with a minimum of twenty-five percent (25%) of the total housing units to be rented at low income housing levels. The Developer's Kit for this Parcel dated March, 1973 which requires general design conformity with the "Church Park" development constructed on Parcel 11, shall be amended so as to allow developers to submit proposals for an alternate use of said site involving either new construction or rehabilitation of the existing buildings on the site. The Kit shall further require that the developer retain the existing area at the Haviland Street end of the site or construct a comparable facility available to the public. The BRA agrees that while Parcel 12 is within an urban renewal area

it shall be developed only for the use set forth above. The BRA further agrees that in general, the development of Parcels 7 and 9 shall have priority over that of Parcel 12.

12. The BRA intends to cause Parcel 13 to be developed in accordance with a Letter of Intent dated August 15, 1972.

13. The BRA does not presently intend to redevelop or cause to be redeveloped any Disposition Parcels in the Fenway Urban Renewal Project other than the Disposition Parcels hereinbefore referred to. If community needs indicate the desirability of redeveloping other Disposition Parcels at a future time, the BRA and FenPAC shall cooperate to develop plans best suited to the needs of the community.

14. The undeveloped portion of the Fenway Urban Renewal Project shall be developed in compliance with all applicable federal or state environmental provisions to the extent required.

15. In connection with the acquisition of the properties on Parcels 7,9,12 and 13, the BRA agrees to give FenPAC at least fifteen (15) days advance notice of its intention to mail notices of a taking by eminent domain or notice to vacate to owners or occupants.

16. The BRA agrees to submit a "closeout budget" for the Fenway Urban Renewal Project to HUD during fiscal year 1975, to keep FenPAC informed in relation thereto and to furnish copies of said "closeout budget" to FenPAC. The BRA shall further consult with FenPAC in the preparation of said "closeout budget".

17. The terms and provisions of this STIPULATION AND AGREEMENT remain in full force and effect for a period of three years from its date of execution.

The within STIPULATION AND AGREEMENT, consisting of _____ pages and _____ signature pages numbered _____ and _____ is hereby executed by counsel for each party this _____ day of 1974.